

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

James Bigham, John Quarnstrom,
Robert Vranicar, Steve Ritche, Marty
Strub, and Richard Leitschuh as
Trustees of the Sheet Metal Local #10
Control Board Trust Fund, and the Sheet
Metal Local #10 Control Board Trust
Fund,

Plaintiffs,

Case No.: 11-CV-2526 (DSD/AJB)

REPORT AND RECOMMENDATION

vs.

Vogt Heating, Air Conditioning &
Plumbing, LLC,

Defendant.

This matter came before the Court without hearing based on the Court's March 5, 2013 and April 11, 2013 Orders.

FINDINGS OF FACT

1. On February 7, 2013, the Defendant's counsel moved to withdraw from this matter.
2. On March 5, 2013, the Court granted the Defendant's counsel's request to withdrawal, on the condition that counsel's withdrawal would occur only after 30 days had passed from the date of the Order. The Order further directed to Vogt to retain new counsel during this thirty day period and stated that if the Defendant failed to retain new counsel, the Defendant's pleadings would be stricken and default would be entered.

3. On April 5, 2013, the Defendant's counsel withdrew. At this time the Defendant has not notified the Court that it retained new counsel.

4. On April 11, 2013, this Court issued an Order to Show Cause requiring the Defendant to file a Notice of Appearance of Counsel or file a response to the Order explaining why the Court should not strike its pleadings and enter default judgment in favor of the Plaintiffs on or before May 2, 2013.

5. On May 2, 2013, the Defendant filed a letter with the Court stating it did not have the resources to retain counsel and requested that the matter be dismissed.

CONCLUSIONS OF LAW

1. The Defendant cannot proceed in this litigation *pro se*. *Rowland v. California Men's Colony*, 506 U.S. 194, 201-02 (1993).

2. The Defendant has failed to show cause as to why its pleading should not be stricken and default judgment in favor of the Plaintiffs' entered as required by the Court's April 11, 2013 Order.

ORDER

Based on the foregoing, and on all the files, records, and proceedings, herein, IT IS HEREBY RECOMMENDED THAT:

1. The Defendant's pleadings filed in this matter shall be stricken.
2. That default judgment be entered against Defendant and in favor of the Plaintiffs.
3. That the Plaintiffs submit an itemization of its damages by subsequent affidavit to this Court within fourteen days of the District Court's adoption of this Report and Recommendation.

BY THE COURT:

Dated: May 24, 2013

____s/ *Arthur J. Boylan*_____
The Honorable Arthur J. Boylan
United States Chief Magistrate Judge